

**AUG 11 2006**Miller v. City of Phoenix, 04-16778

KLEINFELD, Circuit Judge, concurring:

**CATHY A. CATTERSON, CLERK**  
**U.S. COURT OF APPEALS**

I have not found authority to support the district court's sanctions and counsel did not provide me with any. It strikes me, however, as essential that district courts have the power to manage the flow of litigation so that cases proceed in a "just, speedy and inexpensive" manner.<sup>1</sup>

There may be bad faith in this case or there may not be. Even if there is not, the lawyer's continual delays and numerous missed deadlines justified the district court's decision to impose sanctions. A sanction measured by the amount of money the lawyer's adversary had to waste litigating unnecessarily, payable as compensation to the party who had to waste the money, strikes me as a particularly well measured sanction in this case.

I would therefore affirm, if I could find authority to do so.

---

<sup>1</sup> The Federal Rules of Civil Procedure are to "be construed and administered to secure the just, speedy, and inexpensive determination of every action." FRCP 1.